THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 18819 2007

Date: 22.10.2007

Between:

N. Chiranjeevi.

.... Petitioner

and

The Commercial Tax Officer and another.

... Respondents.

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 18819 2007

ORDER:

Heard the learned Counsel for the parties. Counter has been filed.

The grievance of the petitioner is that notice has been issued demanding certain amounts from him without passing any assessment order. He submits that an assessment was made, against which an appeal was filed before the appellate authority and against the appellate authority's order, a *suo motu* revision was taken up by the Joint Commissioner (CT) Legal and the Joint Commissioner remanded the matter to the Assessing Authority but without any fresh assessment the impugned notice has been issued. Learned Government Pleader submits that in fact the original assessment order had been restored by the Joint Commissioner in the revision, therefore, the notice has been issued in accordance with the original assessment.

We have gone through the order of the Joint Commissioner which unfortunately does not lead anybody anywhere. The last two paragraphs give confusing and contradictory directions. In

one paragraph it states

"therefore I deem it fit to remand the matter back to the assessing authority to verify the quantum of tax paid by the assessee on his local purchases of VAT commodities opening stock and, also, deduct from the purchase value of such goods credits and discounts received by the assessee from the local sellers during the current year i.e., 95-96 and do denovo assessment."

In another paragraph it states

"the revision therefore, is accordingly disposed duly setting aside the orders of the Appellate Deputy Commissioner (CT), Vijayawada, cited at reference 2nd above and also any consequential orders if any, passed by the assessing authority contrary to the directions in this revision orders and restore the original assessment order of the assessing authority."

If the matter had been remanded for fresh assessment as stated in the first para mentioned above, then there was no question of restoring the original assessment order and if the original assessment order was restored setting aside the appellate order, there was no question of fresh assessment. Therefore, we cannot find fault with the Commercial Tax Officer in issuing an impugned notice because there was a chance of understanding that the original assessment order had been restored.

In this view of the matter, we set aside the order of the revisional authority i.e., the Joint Commissioner and also the impugned notice and remand the case back to the Joint Commissioner for hearing the revision afresh for passing appropriate orders. If, on merits, he wants to restore the assessment order, then he should say so clearly in the order and if he wants to remand the case, then he should specifically say so, so that there is no confusion for the authority below him, in understanding his order.

With these observations the writ petition is disposed of.

BILAL NAZKI,J

Date: 22.10.2007

RAMESH RANGANATHAN,J

MRKR